

OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management

MEMORANDUM OM 07-07(Revised)

November 15, 2006

TO: All Regional Directors, Officers-in-Charge,
and Resident Officers

FROM: Richard A. Siegel, Associate General Counsel

SUBJECT: Expansion of the General Counsel's Policy for
Electronically Filing Casehandling Documents with
Regional, Subregional or Resident Offices

The Division of Operations-Management recently surveyed all Regional Offices with respect to their experience under the General Counsel's Internet E-mail and Casehandling Policy. The survey results demonstrated that receiving documents in a Regional Office electronically has substantially enhanced case processing. This policy has also served the President's management agenda of making government services citizen centric and business friendly. In addition, receiving documents electronically is an important first step in allowing the Agency to move toward creating an electronic case file system. Based on the results of this survey, the General Counsel has decided that the policy of allowing parties to file documents electronically with a Regional Office should be expanded consistent with the Board's E-Filing Project.

Expanded Policy of Filing Documents with a Regional Office Electronically

Accordingly, effective Friday, November 17, 2006,¹ we are expanding the Agency's policy to permit parties to utilize an electronic filing system on the Agency's website to send the following documents to a Regional, Subregional or Resident Office: Briefs (R and ULP cases), Answers to Complaints or Compliance Specifications, Motions for Summary Judgment, Petitions to Revoke Subpoenas, Motions for Bill of Particulars and Election Objections. Except for 1) Answers to Complaints or Compliance Specifications and 2) any documents over 15 pages in length, including attachments, a party is not required to send the Regional Office a paper copy of the documents filed electronically with a Regional Office utilizing the new electronic filing system on the Agency's website.

Answers to Complaints and Compliance Specifications, and any documents that are over 15 pages in length, including attachments, may be transmitted to the Regional Office using the electronic filing system on the Agency's website, but a paper copy must also be sent to the Regional Office so that it is received by that office no later than three (3) business days after the date of electronic filing. In all other electronic filings, we

¹ This date may be subject to change since it is dependent on the completion and launch of the Agency's redesigned website.

have eliminated the requirement to send a paper copy of the document as requiring both an electronic copy and a hard copy is duplicative and defeats the purpose of the electronic initiative.

Paper copies of Answers to Complaints and Compliance Specifications are being required because under the Boards' Rules and Regulations, such documents must be signed by the party or the party's attorney or representative. Board Rules and Regulations, Section 102.21. In addition, an appropriate number of copies (an original and four copies) of Answers must be sent to the Regional Office as required by the Board's Rules. Paper copies of documents over 15 pages in length are required for consistency with the requirements of the Board's E-filing Project. It will also avoid the cost and burdens of printing copies of lengthy paper documents in our offices.

Instructions for Filing on the Agency's Website

On the Agency's website, <http://www.nlr.gov>, under **E-Gov**, click on the **E-Filing** link on the pull-down menu. An E-File page opens, giving the user several E-Filing options. Click on the "File Documents" button under "Regional, Subregional and Resident Offices."

After clicking on this button, a user will first see a page containing the E-Filing terms. At the bottom of this page, a user must click on the button indicating that the user has read the terms and then must click the "Accept" button. A page will then appear that allows the user to send a document to the appropriate Regional, Subregional or Resident Office. There is a 2-step process to transmit a document electronically to the appropriate office. The first step is to fill in the requested user information, and to select and attach the document. The first field to be completed will be to select the appropriate Regional, Subregional or Resident Office to which the document should be sent. All fields marked with an asterisk (*) on the form must be completed. After completing this first step, the user clicks SUBMIT Form at the bottom of the page. In the second step, a user will be asked to verify the information provided before completing the process of electronically filing with a Regional, Subregional or Resident Office. Utilization of the E-Filing form on the Agency's website to file documents is permitted under Section 102.114, notwithstanding any contrary provisions in the Board's Rules and Regulations.

Regional Mailboxes Discontinued

The E-mail boxes for each Regional, Subregional or Resident Office that had previously been established are being discontinued effective November 17, 2006. Therefore, on this date, all documents to be filed electronically with a Regional, Subregional or Resident Office should be filed utilizing the new electronic filing system on the Agency's website. After November 17, 2006, documents sent to the E-mail boxes for each Regional, Subregional or Resident Office will not be accepted.

Documents That May Be Filed With a Regional Office

In summary, the following documents may be filed electronically with a Regional, Subregional or Resident Office using the link for filing such documents on the Agency's website:

Position Statements
 Notices of Appearance
 Requests for an Extension of Time For Filing
 of Documents Due to be Filed With
 a Regional Director or Hearing Officer
 Requests for Postponement of a Hearing Due
 to be Filed With a Regional Director or
 Hearing Officer
Excelsior Lists
 Observer Designations
 Requests To Proceed
 Withdrawal Requests
 Disclaimers of Interest
 Election Objections and Evidence in Support
 Representation Case Briefs to the Regional Director/
 Hearing Officer
 Briefs to Administrative Law Judges to be
 served on Counsel for the General Counsel
 Unfair Labor Practice Exceptions and Briefs to the Board
 to be served on Counsel for the General Counsel
 Answers to Complaints or Compliance Specifications
 Motions for Summary Judgment and responses to such
 motions to be filed with the Regional Director or
 Counsel for the General Counsel
 Petitions to Revoke Subpoenas and responses to such
 petitions to be filed with the Regional Director or
 Counsel for the General Counsel
 Motions for Bill of Particulars to be filed with the
 Regional Director
 Any document filed electronically with the Board
 in accordance with the Board's E-Filing Project

Provided that:

- For any Answer to a Complaint or Compliance Specification or any document over fifteen (15) pages in length, a party transmits a paper copy of the document to the Regional Office by traditional means within three (3) business days after the date of electronic filing.
- Any document submitted to a Region electronically must be complete. Any attachments must be converted into electronic form and included as part of the document. The NLRB utilizes the Microsoft Office suite of software. A document electronically submitted to a Regional, Subregional or

Resident Office must be in an electronic format that may be opened, read and printed by that office. Microsoft *Word* documents must bear the suffix “.doc”; other documents must be named in a fashion to permit their recognition by the Microsoft suite of software, e.g., “.ppt” (*PowerPoint*) or “.xls” (*Excel*). In addition, the Agency utilizes *Adobe Reader* software and can open and read “.pdf” documents. The responsibility for the receipt and usability of a document rests exclusively upon the sender.

- **Electronic Filings Must Be Timely:** Parties and persons are cautioned that electronic filings to Regional, Subregional or Resident Offices must be timely so that transmission through the Agency’s website is accomplished by the time of close of business in the receiving office. A failure to timely file or serve a document will not be excused on the basis that the transmission could not be accomplished because the Agency’s website was off-line or unavailable for some other reason.

Documents that May Not Be Filed With a Regional Office

The following documents may not be filed with a Regional Office electronically:

Unfair Labor Practice Charges
Representation Petitions

Currently, it is not administratively feasible to accept charges and petitions through our website. These documents should be sent to a Regional Office by mail, fax, overnight delivery service or hand delivery. As the Agency continues to make progress with its E-filing initiatives, we will re-examine this restriction.

Regional Access to Electronic Filed Documents

A software tool, *eRoom*, that permits electronic documents to be stored, opened and viewed, will be utilized as the means of giving Regions immediate access to documents that are electronically filed. Regional, Subregional and Resident Offices have been given a number of *eRoom* licenses and have designated the staff members who will be responsible for opening and circulating documents. Training on *eRoom* for these designated staff members was completed during the week of October 23.

When a document is filed electronically with a Regional, Subregional or Resident Office, an E-mail notification will be sent to all of the designated individuals informing them that a new document has been received in the *eRoom*. The office will then be responsible for opening and circulating this document. Each office must establish procedures so that, except for documents over 15 pages in length, documents are opened, printed and circulated not less than two times each workday. After circulation, a hard copy of such documents must be placed in the case file. For documents more than 15 pages in length, the documents should be opened and circulated, but such documents do not have to be printed since a paper copy of the document will be

received within 3 business days. The paper copy of documents over 15 pages in length should be placed in the case file after it is received.

Service of Documents

The General Counsel's policy outlined in this memorandum, consistent with requirements of Section 102.114(a) of the Board's Rules and Regulations, provides that documents may be served on a Regional Director, Hearing Officer or Counsel for the General Counsel by utilizing the E-filing form on the Agency's website. Simply put, the General Counsel is consenting to be served by "other means." However, service on other parties to the case must still be accomplished by means allowed under the Board's Rules and Regulations. For example, a brief to the Board in support of a party's exceptions to an ALJ decision may be served on Counsel for the General Counsel using the E-filing form on the Agency's website. However, this same brief would need to be served on the other parties to the case in accordance with the Board's service rules.

Regular Review

The Division of Operations-Management will be reviewing on a regular basis the practices adopted in this memorandum with respect to electronic filing of casehandling documents with Regional Offices and will make revisions to this policy as necessary to address any concerns or issues that may arise based on our experience under the program.

Change to Attachment to Docket Letters

The attachment that Regional Offices send to parties with the initial docket letters describing the General Counsel's policy on electronic filings has been revised to reflect this new change and to summarize the Board's E-Filing Project rules. Regions should immediately begin using the revised attachment.

If you have any questions regarding this memorandum, please contact your Assistant General Counsel or Deputy or the undersigned.

/s/
R.A.S.

Attachment
cc: NLRBU
Release to the Public

MEMORANDUM OM 07-07(Revised)

POLICIES AND PROCEDURES FOR ELECTRONIC COMMUNICATIONS WITH THE NLRB

This document sets forth the policies and procedures for two types of electronic communications with the NLRB: electronic communications and filing with field offices (Regional, Subregional, and Resident Offices) and electronic filing with the Office of the Executive Secretary of the Board in Washington, DC.

ELECTRONIC COMMUNICATIONS AND FILING WITH FIELD OFFICES

The General Counsel of the National Labor Relations Board has established the following policies for electronic communications and filings with the NLRB field offices, which include Regional, Subregional and Resident Offices.

E-Mail Communications with Board Agents: To encourage and facilitate the exchange of case handling information between the parties or their representatives and Board agents, individual Board agents' E-mail addresses will be made available to the parties. We encourage parties and/or their representatives to provide the Regional, Subregional or Resident Office with their E-mail addresses. E-mail communications with a represented party generally will be through the party's attorney or other representative.

If an outside party and/or its representative provides its E-mail address, Board agents will accept and send E-mail messages to arrange appointments, schedule witnesses and exchange other case-relevant information. Please note that a Board agent may be unable to access E-mails when the agent is away from the Regional office. If a party and/or its representative requests that communications not be sent by E-mail, Board agents will honor that request after receipt of the request in the Regional, Subregional or Resident Office.

To facilitate the identification of the type of communication being transmitted to a Board agent by E-mail, outside parties and representatives are requested to place in the subject line of the E-mail message the case name, case number and a brief description of the communication, such as "scheduling of appointment."

Filing Documents through Agency Website: Electronic communications that contain a substantive discussion of the merits of a case, or include one of the documents listed below, or that request an extension of time for filing a document, whether or not it contains attachments, are considered to be substantive documents and must be submitted to the appropriate Regional, Subregional or Resident Office through the Agency website:

<http://www.nlrb.gov>

On the Agency's website, under **E-Gov**, click on the **E-Filing** link on the pull-down menu. An E-File page opens, giving the user several E-Filing options. Click on the "File Documents" button under "Regional, Subregional and Resident Offices."

After clicking on this button, a user will see a page listing the E-Filing terms. At the bottom of this page, a user must click on the button indicating that the user has read the E-Filing Terms and then click on the "Accept" button. A page will then appear that allows the user to send a document to the appropriate Regional, Subregional or Resident Office. There is a 2-step process to transmit a document electronically to the appropriate office. The first step is to fill in the requested user information, and to select and attach the document. The first field to be completed will be to select the appropriate Regional, Subregional or Resident Office to which the document should be sent. All fields marked with an asterisk (*) on the form must be completed. After completing this first step, click the SUBMIT FORM button at the bottom of the page. In the second step, a user will be asked to verify the information provided before completing the process of electronically filing with a Regional, Subregional or Resident Office. Utilization of the E-Filing form on the Agency's website to file documents is permitted under Section 102.114, notwithstanding any contrary provisions in the Board's Rules and Regulations.

Regional Mailboxes Discontinued : The E-mail boxes for each Regional, Subregional or Resident Office that had previously been established are being discontinued effective November 17, 2006. Therefore, on this date, all documents to be filed electronically with a Regional, Subregional or Resident Office should be filed utilizing the new electronic filing system on the Agency's website. On and after November 17, 2006, documents sent to the E-mail boxes for each Regional, Subregional or Resident Office will not be accepted.

The following are examples of documents that may be sent to a Regional, Subregional or Resident Office electronically through the Agency's website:

- Position Statements
- Notices of Appearance
- Requests for an Extension of Time For Filing Of Documents Due to be Filed With a Regional Director or Hearing Officer
- Requests for Postponement of a Hearing Due to be Filed With a Regional Director or Hearing Officer
- *Excelsior* Lists
- Observer Designations
- Requests To Proceed
- Withdrawal Requests
- Disclaimers of Interest
- Election Objections and Evidence in Support
- Representation Case Briefs to the Regional Director/Hearing Officer
- Briefs to Administrative Law Judges to be served on Counsel for the General Counsel
- Unfair Labor Practice Exceptions and Briefs to the Board to be served on Counsel for the General Counsel
- Answers to Complaints or Compliance Specifications

- Motions for Summary Judgment and responses to such motions to be filed with the Regional Director or Counsel for the General Counsel
- Petitions to Revoke Subpoenas and responses to such petitions to be filed with the Regional Director or Counsel for the General Counsel
- Motions for Bill of Particulars to be filed with the Regional Director
- Any document filed electronically with the Board in accordance with the Board's E-Filing Project

Provided that:

- For any Answer to a Complaint or Compliance Specification or any document over fifteen (15) pages in length, a party must transmit a paper copy of the document to the Regional Office by traditional means within three (3) business days after the date of electronic filing.
- Any document submitted to a Region electronically must be complete. Any attachments must be converted into electronic form and included as part of the document.

Requirements For All Documents Sent Electronically to a Field Office: The following requirements apply to all documents sent to a field office.

1. Electronic Filings Must Be Timely: Parties and persons are cautioned that electronic filings to Regional, Subregional or Resident Offices must be timely so that transmission through the Agency's website is accomplished by the time of close of business in the receiving office. A failure to timely file or serve a document will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason.

2. Format of Documents: Documents should be in a "read only" format that ensures that the attachment may not be modified or altered. The NLRB utilizes the Microsoft Office suite of software. A document electronically submitted to a Regional, Subregional or Resident Office must be in an electronic format that may be opened, read and printed by that office. Microsoft *Word* documents must bear the suffix ".doc"; other documents must be named in a fashion to permit their recognition by the Microsoft suite of software, e.g., ".ppt" (*PowerPoint*) or ".xls" (*Excel*). In addition, the Agency utilizes *Adobe Reader* software and can open and read ".pdf" documents. The responsibility for the receipt and usability of a document rests exclusively upon the sender.

3. Unacceptable Electronic Transmissions: The following documents may not be filed with a Regional, Subregional or Resident Office electronically:

Unfair Labor Practice Charges
Representation Petitions

Currently, it is not administratively feasible to accept charges and petitions through our website. These documents should continue to be sent to a Regional Office by mail, fax, overnight delivery service or hand delivery.

4. Official Business: Outside parties may send electronic communications to Regional, Subregional and Resident Offices dealing only with official Agency business. E-mails to Board agents or Regional, Subregional or Resident Offices not dealing with official Agency business, such as those soliciting business or advertising products or services, are strictly prohibited.

5. Computer Viruses: Outside parties communicating with Board agents or Regional, Subregional or Resident Offices are requested to take all reasonable steps to prevent sending any material to the Agency that contains computer viruses or other matters that may be harmful to the Agency's information technology systems.

DOCUMENTS THAT MAY BE FILED ELECTRONICALLY WITH THE OFFICE OF THE EXECUTIVE SECRETARY OF THE BOARD IN WASHINGTON, DC

The Board has established the following procedures pursuant to its E-filing Project for filing documents electronically with the Board:

- Any document fifteen (15) pages in length or less, including attachments, which may, under the Board's Rules, be filed with the Office of the Executive Secretary.
- Any such document over fifteen (15) pages in length and less than ten (10) MB in size, provided that the appropriate copies otherwise required by the Board's Rules are received by the Office of the Executive Secretary by traditional means within three (3) business days.
- These documents include, but are not limited to the following:

Representation Cases

- Exceptions to Post-Election Reports/Decisions
- Requests for Review
- Requests for Special Permission to Appeal Regional Director's Decision/Order
- Briefs
- Motions (all types)
- Other Requests (all types)
- Oppositions to Pending Requests or Motions

Unfair Labor Practice Cases

- Exceptions
- Cross Exceptions
- EAJA Applications
- Requests for Special Permission to Appeal ALJ Ruling

- Objections to Settlements
- Briefs
- Motion (all types)
- Other Requests (all types)
- Opposition to Pending Requests or Motions

Documents that May Not be Filed Electronically with the Office of the Executive Secretary of the Board in Washington, DC:

- Documents to be filed with the Office of the General Counsel
- Documents to be filed with the Division of Judges
- Documents to be filed with a Regional Director
- Documents not permitted by the Board's Rules to be filed with the Office of the Executive Secretary
- Petitions for Advisory Opinions
- Documents that are more than ten (10) MB in size

The Board's E-Filing Project establishes the following six requirements:

1. E-FILINGS MUST BE TIMELY. Parties or other persons using the Board's E-Filing Form are cautioned not to rely on E-Filing for "last minute" requests. A failure to timely file or serve a document will not be excused on the claim that the transmission could not be accomplished because the receiving machine was off-line or unavailable for any other reason. E-Filings must comport with all applicable time requirements including [Section 102.111\(b\)](#). Further, the verification that your document has been successfully transmitted to the Web site does not indicate actual filing and timely receipt by the Board. A party will be sent an e-mail notification when its document has been received by the Board's Office of the Executive Secretary. The date and time of receipt specified on this notification will be used to determine whether the submission is timely. This e-mail receipt will be delivered to the e-mail address listed on the E-Filing form.

2. PREFERRED DOCUMENT FORMAT IS PDF. The preferred format for submitting documents using E-Filing is *Adobe's Portable Document Format (*.pdf)*. However, in order to make the Board's E-Filing system more widely available to the public, persons who do not have the ability to submit documents in PDF format may submit documents in Microsoft *Word* format (*.doc). Persons who do not have the ability to submit documents in either PDF or Microsoft *Word* format may submit documents in simple text format (*.txt). The Board requires that documents submitted electronically must be (1) in a "read only" format and (2) free from any computer virus.

3. DOCUMENTS MUST BE VIRUS-FREE. A user of the E-Filing Project is responsible for taking all reasonable steps to prevent sending any material to the Agency that contains computer viruses. All submissions using this E-Filing Form will be scanned for viruses. Any submission that contains a virus will automatically be deleted by the Agency's computer system and thus will not be processed.

4. DOCUMENTS MUST BE COMPLETE. Any document submitted via the Board's E-Filing Form must be complete. Any attachments must be converted into electronic form and included as part of the document. No attachments may be filed (either electronically or by service of hard copy) separately from the electronic document under any circumstances.

5. ALL DOCUMENTS MUST INCLUDE STATEMENT OF SERVICE. Any document submitted via the Board's E-Filing Form must be served on the parties and the Regional Director. A statement of service must be included in the document pursuant to the expedited service requirements of [Section 102.114\(i\)](#) of the Board's Rules and Regulations. Depending on the means of service, the statement of service should include the address and fax number of the individuals and parties served. The Board will not process any E-Filing without an appropriate statement of service.

6. COPIES OF LONG DOCUMENTS MUST BE SUBMITTED SEPARATELY.

Documents of fifteen (15) pages in length or less, including attachments, may be submitted via the Board's E-Filing Form without the copies normally required by the Board's Rules and Regulations. Documents over fifteen (15) pages in length and less than ten (10) MB in size may be submitted via the Board's E-Filing Form provided that the appropriate copies required by the Board's Rules and Regulations are promptly submitted via personal service or overnight delivery service, and are received by the Office of the Executive Secretary no later than three (3) business days after the electronic filing. Documents that are more than ten (10) MB in size may not be filed electronically.

QUESTIONS. Any questions about the General Counsel's or the Board's E-filing policies should be directed to an NLRB Information Officer during regular business hours.